

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DERRICK SWEETING,	:	Case No. 1:20-cv-251
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
WARDEN RICHARD ERDOS,	:	
	:	
Defendant.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 20) AND
TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on October 8, 2020, submitted a Report and Recommendation. (Doc. 20). No objections were filed.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that the Report and Recommendation (Doc. 20) should be and is hereby

ADOPTED in its entirety.

Accordingly, for the reasons stated above:

- 1) To the extent the success of Plaintiff's Fourteenth Amendment due process claim could affect his release date from prison, that claim is **DISMISSED** as *Heck*-barred **without prejudice** to refiling should Plaintiff show that his disciplinary conviction has been overturned.

- 2) To the extent Plaintiff's Fourteenth Amendment due process claim is not *Heck*-barred, that claim, as well as Plaintiff's other federal claims, is **DISMISSED** pursuant to §§ 1915(e)(2)(B) and 1915A(b)(1).
- 3) To the extent Plaintiff claims the actions of Defendant Warden Erdos violate the state law of Ohio, the Court **DECLINES to exercise pendent jurisdiction** over such claims because Plaintiff fails to state a viable federal law claim.
- 4) The Court certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal of this Order would not be taken in good faith and therefore Plaintiff is denied leave to appeal *in forma pauperis*.
- 5) The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

Date: 10/28/2020

/s/ Timothy S. Black
Timothy S. Black
United States District Judge